

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021-263-T – ORDER NO. 2021-
_____,2021**

IN	Application of Willie Banks d/b/a)	ORDER GRANTING CLASS E
RE:	Its About Time Delivery for a)	HOUSEHOLD GOODS
	Class E (Household Goods))	CERTIFICATE
	Certificate of Public Convenience)	STATEWIDE AUTHORITY
	and Necessity for Operation of)	
	<u>Motor Vehicle Carrier</u>)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Willie Banks d/b/a Its About Time Delivery. (hereinafter referred to as "Mr. Banks" or the "Applicant"). By his Application, Mr. Banks requests a Class E Certificate of Public Convenience and Necessity ("CPCN") with authority to transport household goods statewide.

II. PROCEDURAL HISTORY

Mr. Banks filed his Application with the Commission on August 11, 2021. By letter dated August 18, 2021, the Clerk's Office of the Commission instructed Mr. Banks to publish the Notice of Filing (the "Notice") in newspapers of general circulation. Among other things, the Notice provided information regarding the Application and advised any person who desired to participate as a party of record that a Petition to Intervene must be filed on or before September 2, 2021. Notice was timely published. No person intervened as a party of record.

The evidentiary hearing was held virtually on October 26, 2021, with the Honorable Justin T. Williams presiding. Applicant was represented by Charles Terreni, Esquire. The

South Carolina Office of Regulatory Staff ("ORS"), a party of record pursuant to S.C. Code Ann. § 58-41-10(B) (Supp. 2019), was represented by Nicole M. Hair, Esquire.

III. EVIDENCE OF RECORD

Mr. Banks testified in support of his application. Mr. Banks is a truck driver with a Class A commercial driver's license. He has fourteen years' experience driving a variety of trucks including flat beds and tractor trailers. He also works loading and unloading trucks for consignment shops and individuals. Mr. Banks' work for consignment shops often involves high-end furniture, as well as the assembly of furniture. Mr. Banks wants to bring his experience to the household goods moving business. Mr. Banks' wife, Michelle, will work for the business in an administrative capacity.

Mr. Banks owns two trucks, a 2004 Isuzu, with a power lift gate and a 26 ft. 2000 GMC C-Series Box Truck. He has secured quotes for the required liability and cargo insurance.

Mr. Banks plans to hire employees from the community. He will train his employees personally. The business will conduct background checks.

Mr. Banks believes South Carolina's rapid population growth will provide an opportunity for his household goods moving business. He knows the upstate area and will market his services in South Carolina through social media and word of mouth.

Mr. Banks plans to grow the business over the next five years, adding employees, trucks, and a warehouse.

Mr. Banks testified there are no outstanding judgments against him or Mr.

Banks. Further, Mr. Banks is familiar with all statutes and regulations governing for-hire motor carrier operations in South Carolina, including the Commission's regulations regarding insurance requirements.

On October 18, 2021, Applicant moved to present shipper witness testimony of Leon Scott by declaration. The Hearing Officer granted this request by Order No. 2021-130-H. Mr. Scott has been a real estate agent in Oconee County since 2018. Mr. Scott testified South Carolina's housing market is strong. Mr. Scott is frequently asked to recommend movers of household goods, and it can be difficult to find qualified movers who are dependable and experienced. He would like to add Its About Time to the list of companies he recommends for moving services and believes the public interest would be served by granting Mr. Banks' Application.

ORS did not prefile direct testimony. However, by letter dated October 25, 2021, ORS stated it is "of the opinion that the Applicant will meet the requirements of fit, willing and able as required of a Household Goods Mover under the provisions of S.C. Code Ann. Regs. 103-133 (2012)."

IV. LAW

The Commission is charged with promulgating regulations to govern the operations of carriers of household goods. S.C. Code Ann. § 58-23-590(A). The Commission is authorized to fix or approve just and reasonable rates, fares, and charges upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service. S.C. Code Ann. § 58-23-

1010 (2015); S.C. Code Ann. Regs. 103-133(1) (2012); S.C. Code Ann. Regs. 103-192 (2012). S.C. Code Ann. Regs. 103-133 (2012) is entitled "Proof Required to Justify Approving an Application" and for household goods applications, provides as follows:

- a. **FIT.** The applicant must demonstrate or the commission determines that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.D.P.S. safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.
- b. **ABLE.** The applicant should demonstrate that he has either purchased or leased on a long-term basis necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the commission's insurance requirements and the costs associated therewith. Additionally, the applicant can file a statement indicating the applicant's purpose for seeking a Class E Certificate, the applicant's 5-year plan if the commission grants the applicant a Class E Certificate, and such other information that may be contained in a business proposal.
- c. **WILLING.** Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

(emphasis added) S.C. Code Ann. Regs. 103-133(1) (2012).

V. DISCUSSION

Based upon the evidence of record, Mr. Banks d/b/a Its About Time Delivery has demonstrated it is fit, willing, and able to provide and properly perform the proposed services. Mr. Banks testified there are no outstanding judgments pending against Applicant

and certified Mr. Banks is familiar with and will comply with all statutes and regulations governing for-hire motor carrier services. This satisfies the "fitness" requirement.

"Able" was demonstrated by Applicant's vehicles. Mr. Banks has also provided insurance quotes, which indicates he is aware of the Commission's insurance requirements and the costs associated therewith. Further, Mr. Banks has experience as driving trucks and moving furniture.

Having demonstrated Mr. Banks is "fit" and "able" to provide the proposed service, filing the Application satisfies the "willing" requirement.

Applicant has also met the public convenience and necessity requirement. Mr. Scott, a real estate agent, testified as to the difficulty she encounters when recommending movers who are dependable and experienced.

VI. FINDINGS OF FACT

The Commission finds there are no outstanding judgments pending against Mr. Banks. Further, Applicant is familiar with and agrees to comply with all statutes and regulations governing movers of household goods. Mr. Banks is fit to appropriately perform the service described in his Application.

1. The Commission finds Mr. Banks owns vehicles to provide the service described in his Application. Further, Mr. Banks supplemented his Application with an insurance quote. Mr. Banks is able to appropriately perform the service described in his Application.

2. The Commission finds that by submitting his Application, Mr. Banks has demonstrated he is willing to appropriately perform the proposed service.

3. The Commissions finds that public convenience and necessity are not already being served by existing authorized services.

VI. CONCLUSIONS OF LAW

1. The Commissions concludes that Mr. Banks has demonstrated he is fit, willing, and able to appropriately perform the service described in his Application. S.C. Code Ann. Regs. 103-133(1) (2012).

2. The Commission concludes that the public convenience and necessity are not already being served by existing authorized service. S.C. Code Ann. Regs. 103-133(1) (2012).

3. The Commission concludes that a Class E (Household Goods) Certificate of Public Convenience and Necessity should be granted to Mr. Banks.

ORDERING PROVISIONS

IT IS THEREFORE ORDERED:

4. The Application of Willie Banks d/b/a Its About Time Delivery for a Class E (Household Goods) Certificate of Public Convenience and Necessity is approved for the Applicant to transport household goods to points and places throughout South Carolina.

1. Mr. Banks' Tariff and Bill of Lading are approved and attached hereto as Order Exhibits 1 and 2, respectively.

2. Applicant shall file with the Office of Regulatory Staff the proper insurance, safety rating, and other information required by S.C. Code Ann. § 58-23-10 et seq., as amended, and by S.C. Regulations 103-100 through 103-241 of the Commission's Rules and Regulations for Motor Carriers, and S.C. Regulations 38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, as amended,

within ninety (90) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. § 58-23-10 et seq., and the applicable Regulations for Motor Carriers, a Certificate will be issued by ORS authorizing the motor carrier services granted herein.

4. The motor carrier's services authorized by this Order may not be provided prior to compliance with the above-referenced requirements and receipt of a Certificate.

5. Failure of Applicant to either (1) complete the certification process by complying with ORS requirements within ninety (90) days of this Order, or (2) to request and obtain from the Commission additional time to comply with the requirements stated above, will cause this Order granting the Application to be null and void, and the Application will be dismissed without prejudice. No further order of this Commission is necessary.

8. Should Applicant fail to meet the requirements of this Order, ORS is requested to furnish the name and docket number of Applicant to the Commission, pursuant to the two-month reporting requirement contained in Order No. 2014-443 (May 21, 2014). If such notification is provided, the docket will be closed.

9. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION

Justin T. Williams, Chairman
Public Service Commission of

South Carolina